

the product or service promoted, separately, at the same price at which it was promoted with the “Free” offer.

(2) In such offers, no representation may be made that the price is for one item and that the other is “Free” unless the offeror expects, in good faith, to discontinue the offer after a limited time and to commence selling the product or service promoted, separately, at the same price at which it was promoted with a “Free” offer.

(g) *Negotiated sales.* If a product or service usually is sold at a price arrived at through bargaining, rather than at a regular price, it is improper to represent that another product or service is being offered “Free” with the sale. The same representation is also improper where there may be a regular price, but where other material factors such as quantity, quality, or size are arrived at through bargaining.

(h) *Frequency of offers.* So that a “Free” offer will be special and meaningful, a single size of a product or a single kind of service should not be advertised with a “Free” offer in a trade area for more than 6 months in any 12-month period. At least 30 days should elapse before another such offer is promoted in the same trade area. No more than three such offers should be made in the same area in any 12-month period. In such period, the offeror’s sale in that area of the product in the size promoted with a “Free” offer should not exceed 50 percent of the total volume of his sales of the product, in the same size, in the area.

(i) *Similar terms.* Offers of “Free” merchandise or services which may be deceptive for failure to meet the provisions of this section may not be corrected by the substitution of such similar words and terms as “gift”, “given without charge”, “bonus”, or other words or terms which tend to convey the impression to the consuming public that an article of merchandise or service is “Free”.

(38 Stat. 717, as amended; 15 U.S.C. 41–58)

[36 FR 21517, Nov. 10, 1971]

PART 253—GUIDES FOR THE FEATHER AND DOWN PRODUCTS INDUSTRY

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AUTHORITY: Secs. 5, 6, 38 Stat. 719, as amended 721; 15 U.S.C. 45, 46.

SOURCE: 36 FR 20744, Oct. 29, 1971, unless otherwise noted.

§253.1 Definitions.

(a) *Industry products.* For the purposes of this part the term *industry products* means and includes all pillows, cushions, comforters, sleeping bags, wearing apparel, and similar products which are wholly or partially filled with feathers or down, and all bulk stocks of processed feathers or down intended for use or used in the manufacture of such products.

(b) *Industry members.* All persons, firms, corporations, and organizations engaged in the processing, manufacture, distribution, or marketing of any industry product are considered to be industry members.

(c) *Filling material.* Means the contents of an industry product including feathers and down of any kind or type.

(d) *Down.* Means the undercoating of waterfowl, consisting of clusters of light, fluffy filaments, i.e., barbs, growing from the quill point but without any quill shafts.

(e) *Plumules.* Means downy waterfowl plumage with under developed soft and flaccid quill with barbs indistinguishable from those of down.

(f) *Down fibers.* Means the detached barbs from down and plumules and the detached barbs from the basal end of waterfowl quill shaft which are indistinguishable from the barbs of down.

(g) *Feathers*. Means the plumage or out-growth forming the contour and external covering of fowl which are whole in structure and which have not been processed in any manner other than by washing, dusting, chemical treatment, and sanitizing.

(h) *Waterfowl feathers*. Means feathers derived from ducks and geese.

(i) *Nonwaterfowl feathers or landfowl feathers*. Means feathers derived from chickens, turkeys, and other landfowl.

(j) *Quill feathers*. Means feathers which are over 4 inches in length or which have a quill point exceeding six-sixteenths of an inch in length.

(k) *Feather fiber*. Means the detached barbs of feathers which are not joined or attached to each other.

(l) *Crushed feathers*. Means feathers which have been processed by a curling, crushing, or chopping machine which has changed the original form of the feathers without removing the quill. The term also includes the fiber resulting from such processing.

(m) *Damaged feathers*. Means feathers which have been broken, damaged by insects, or otherwise materially injured.

(n) *Residue*. Means quill pith, quill fragments, trash or foreign matter. [Guide 1]

§ 253.2 Misrepresentation in general.

(a) An industry product should not be labeled, advertised, or otherwise represented in any manner which may have the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers concerning its filling material, covering, composition, quality, processing, testing, manufacture, durability, size, weight, maintenance, cleanliness, construction, warmth, moisture resistance, color, guarantee, origin, price, or any other feature of such product.

(b) Coverings of industry products should be labeled in accordance with the requirements of the Textile Fiber Products Identification Act and the Wool Products Labeling Act. [Guide 2]

§ 253.3 Use of trade names, symbols, depictions, etc.

A trade name, symbol, depiction, or any other kind of representation, should not be used in labeling, in ad-

vertising, or in any other kind of promotion relating to an industry product, when such representation has the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers into believing that the product is composed:

(a) In whole or in part of feathers and down, or feathers, or down, when such is not the fact; or

(b) In whole or in part of feathers or down from a particular type of fowl when such is not the fact; or

(c) That the product has been given chemical treatment to improve its physical or chemical properties when such is not the fact. [Guide 3]

§ 253.4 Misuse of the term "Tan-O-Quil-QM".

(a) The term *Tan-O-Quil-QM* or any words or phrases suggestive thereof should not be used in any labeling or advertising respecting an industry product in any manner which may have the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers into believing that the product or any of its filling material has been treated by the Tan-O-Quil-QM process unless in fact all of the filling material in that product has been treated by the Tan-O-Quil-QM process developed by the Clothing and Organic Materials Laboratory, U.S. Army Natick Laboratories, Natick, Mass., in accordance with applicable U.S. Government specifications (this process is described in Technical Report 69-37-CM, "Tan-O-Quil-QM Treatment for Feathers and Down," dated August 1968).

(b) When the Tan-O-Quil-QM treatment has been applied to all of the filling materials contained in an industry product, the term "Tan-O-Quil-QM" may be used on the label, and the label should include a statement that the product has been so treated in accordance with the applicable U.S. Government specification showing the number thereof. [Guide 4]

§ 253.5 Disclosure of filling material.

(a) *Labeling*. An industry product should be labeled as to the kind or type of filling material contained therein and when the filling material consists of a mixture of more than one kind or